

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KEVIN WILLIAM WALKER)	CASE NO. 1:21-cv-00514-DCN
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	<u>MEMORANDUM OPINION</u>
FNU HOLDEMAN)	<u>AND ORDER</u>
)	
Defendant.)	
)	

I. INTRODUCTION

This matter is before the Court upon the Report and Recommendation of Magistrate Judge Thomas M. Parker (ECF # 18), recommending that the Plaintiff's action in its entirety be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute, and that the Defendant's motion to dismiss (ECF # 15) be dismissed as moot.

II. PROCEDURAL HISTORY

On March 2, 2021, Plaintiff Kevin William Walker filed a *pro se* Complaint (ECF # 1) based upon an alleged violation of his civil rights pursuant to 42 U.S.C. § 1983. Pursuant to Local Rule 72.2(b), this case was referred to Magistrate Judge Thomas M. Parker on July 20, 2021. (ECF # 3).

Officer Holdeman filed a motion to dismiss on January 28, 2022. Because Walker did not respond to Officer Holdeman's motion, the court ordered Walker on March 11, 2022, to file by April 1, 2022, either: (1) a response in opposition to Officer Holdeman's motion; or (2) a notice

to the court indicating that Walker does not intend to prosecute his claims against Officer Holdeman accompanied by a motion to voluntarily dismiss his complaint. (ECF # 16). April 1, 2022, came and went without any action by Walker.

Accordingly, on April 21, 2022, the court issued an order directing Walker to show cause on or by May 22, 2022, why the action should not be dismissed with prejudice. (ECF # 17). The court specifically advised Walker that if he filed both (1) a response in opposition to Officer Holdeman's motion to dismiss and (2) an explanation as to why Walker did not timely respond to the court's March 11, 2022, order, the court may have retracted the show cause order. To date, Walker has not filed anything in response to the show cause order.

On June 1, 2022, Magistrate Judge Thomas M. Parker issued his Report and Recommendation. The Magistrate Judge recommended that the Plaintiff's *pro se* action be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b) and that the Defendant's Motion to Dismiss (ECF # 15) be dismissed as moot. No Objections to the Report and Recommendation were filed within 14 days of service on the parties or since.

III. STANDARD OF REVIEW

The applicable standard of review of a Magistrate Judge's Report and Recommendation depends upon whether objections were made to that report. When objections are made, the district court reviews the case *de novo*. Specifically, Federal Rule of Civil Procedure 72(b) states in pertinent part:

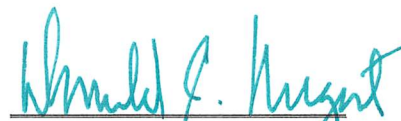
The district judge must determine *de novo* any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instruction.

Although the standard of review when no objections are made is not expressly addressed in Rule 72, the Advisory Committee Notes to that Rule provide that “[w]hen no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” See Fed. R. Civ. P. 72, Advisory Committee Notes. Moreover, in *Thomas v. Arn*, 474 U.S. 140, 150 (1985), the United States Supreme Court explained that “[i]t does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”

IV. ANALYSIS AND CONCLUSION

Here, as stated above, no objections were filed to the Report and Recommendation of Magistrate Judge Parker that the action be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute. This Court has nonetheless carefully and thoroughly reviewed the Report and Recommendation and agrees with the findings set forth therein. The Report and Recommendation of Magistrate Judge Parker is, therefore, ADOPTED. Thus, the action in its entirety is hereby DISMISSED WITH PREJUDICE, and Officer Holdeman’s motion to dismiss is hereby DISMISSED as moot.

IT IS SO ORDERED.


DONALD C. NUGENT
United States District Judge

DATED: June 22, 2022